

107TH CONGRESS
2D SESSION

S. 1994

To establish a priority preference among certain small business concerns for purposes of Federal contracts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2002

Mr. KERRY (for himself and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To establish a priority preference among certain small business concerns for purposes of Federal contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Combined 8(a) and
5 HUBZone Priority Preference Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act the following definitions shall apply:

8 (1) **CONTRACTING OFFICER.**—The term “con-
9 tracting officer” has the same meaning as in section

1 27(f)(5) of the Office of Federal Procurement Policy
 2 Act (41 U.S.C. 423(f)(5)).

3 (2) 8(a) HUBZONE SMALL BUSINESS CON-
 4 CERN.—The term “8(a) HUBZone small business
 5 concern” means a qualified HUBZone small busi-
 6 ness concern that is also a section 8(a) small busi-
 7 ness concern.

8 (3) QUALIFIED HUBZONE SMALL BUSINESS
 9 CONCERN.—The term “qualified HUBZone small
 10 business concern” has the same meaning as in sec-
 11 tion 3(p)(5) of the Small Business Act (15 U.S.C.
 12 632(p)(5)).

13 (4) SECTION 8(a) SMALL BUSINESS CON-
 14 CERN.—The term “section 8(a) small business con-
 15 cern” means a small business concern that is cer-
 16 tified by the Small Business Administration as eligi-
 17 ble to receive benefits under section 8(a) of the
 18 Small Business Act (15 U.S.C. 637(a)).

19 (5) SMALL BUSINESS CONCERN.—The term
 20 “small business concern” has the same meaning as
 21 in section 3(a) of the Small Business Act (15 U.S.C.
 22 632(a)).

23 (6) SMALL BUSINESS CONCERN OWNED AND
 24 CONTROLLED BY SOCIALLY AND ECONOMICALLY DIS-
 25 ADVANTAGED INDIVIDUALS.—The term “small busi-

1 ness concern owned and controlled by socially and
 2 economically disadvantaged individuals” has the
 3 same meaning as in section 8(a)(4)(A) of the Small
 4 Business Act (15 U.S.C. 637(a)(4)(A)).

5 **SEC. 3. ESTABLISHMENT OF PRIORITY PREFERENCE.**

6 (a) EFFECT OF PRIORITY PREFERENCE ON RE-
 7 STRICTED COMPETITION CONTRACTS.—

8 (1) SECTION 8(a) CONTRACTS.—In determining
 9 the successful offeror for a restricted competition
 10 contract under section 8(a)(1)(D) of the Small Busi-
 11 ness Act (15 U.S.C. 637(a)(1)(D)), the contracting
 12 officer shall select an offer from an 8(a) HUBZone
 13 small business concern over a comparable offer from
 14 a section 8(a) small business concern that is not a
 15 qualified HUBZone small business concern.

16 (2) HUBZONE CONTRACTS.—In determining
 17 the successful offeror for a restricted competition
 18 contract under section 31(b)(2)(B) of the Small
 19 Business Act (15 U.S.C. 657a(b)(2)(B)), the con-
 20 tracting officer shall select an offer from an 8(a)
 21 HUBZone small business concern over a comparable
 22 offer from a qualified HUBZone small business con-
 23 cern that is not a section 8(a) small business con-
 24 cern.

1 (b) EFFECT OF PRIORITY PREFERENCE ON PRICE
2 EVALUATION PREFERENCE.—

3 (1) IN GENERAL.—Subject to paragraphs (2)
4 and (3), in any case in which a Federal procurement
5 contract is to be awarded on the basis of full and
6 open competition in accordance with section 303 of
7 the Federal Property and Administrative Services
8 Act of 1949 (41 U.S.C. 253), the price offered by
9 an 8(a) HUBZone small business concern shall be
10 deemed as being lower than the price offered by an-
11 other offeror, if the price offered by the 8(a)
12 HUBZone small business concern is not more than
13 20 percent higher than the price offered by the oth-
14 erwise lowest and responsive offeror.

15 (2) OTHER SMALL BUSINESS CONCERN.—If the
16 competing offeror under paragraph (1) is a small
17 business concern, the price evaluation preference
18 given to the 8(a) HUBZone small business concern
19 shall be 10 percent.

20 (3) RESPONSIVE OFFER.—An 8(a) HUBZone
21 small business concern shall not receive a price eval-
22 uation preference under this section if it does not
23 make a responsive offer.

24 (c) EXCLUSION.—This section does not provide any
25 priority preference to a small business concern owned and

1 controlled by socially and economically disadvantaged indi-
 2 viduals that is also a qualified HUBZone small business
 3 concern, unless such business has been certified by the
 4 Small Business Administration as eligible to receive bene-
 5 fits under section 8(a) of the Small Business Act (15
 6 U.S.C. 637(a)).

7 **SEC. 4. MODIFICATION OF SOLE SOURCE THRESHOLDS.**

8 (a) SECTION 8(a) SMALL BUSINESS CONCERN.—Sec-
 9 tion 8(a)(1)(D)(i)(II) of the Small Business Act (15
 10 U.S.C. 637(a)(1)(D)(i)(II)) is amended—

11 (1) by striking “\$5,000,000” and inserting
 12 “\$6,000,000”; and

13 (2) by striking “\$3,000,000” and inserting
 14 “\$4,000,000”.

15 (b) QUALIFIED HUBZONE SMALL BUSINESS CON-
 16 CERN.—Section 31(b)(2)(A)(ii) of the Small Business Act
 17 (15 U.S.C. 657a(b)(2)(A)(ii)) is amended—

18 (1) in subclause (I), by striking “\$5,000,000”
 19 and inserting “\$6,000,000”; and

20 (2) in subclause (II), by striking “\$3,000,000”
 21 and inserting “\$4,000,000”.

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